

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 vs.

5 **NOTICE OF MOTION**  
6 **23-mj-05095**

7 FRANK NOESON,  
8 Defendant.

9  
10 PLEASE TAKE NOTICE, that FRANK NOESON, by his attorney,  
11 MARK J. BYRNE, ESQ., upon the annexed Affirmation and all the proceedings  
12 and papers heretofore had herein, moves for the following relief:

- 13  
14 1. Extension of the Rule 48(b) Dismissal Date by 30 days; and  
15  
16 2. Such further relief deemed just and proper by this Court.

17 Buffalo, New York

18 September 28, 2023

19 Respectfully Submitted,

20 /s/ Mark J. Byrne

21  
22 MARK J. BYRNE, ESQ.  
561 Ridge Road  
Buffalo, New York 14218  
716.880.0719  
mbyrne@lawofficemjb.com

TO: AARON MANGO, AUSA.

1  
2 UNITED STATES DISTRICT COURT  
3  
4 WESTERN DISTRICT OF NEW YORK  
5  
6 UNITED STATES OF AMERICA

vs.

AFFIRMATION

7 FRANK NOESON,  
8 Defendant.  
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**MARK J. BYRNE, ESQ.**, an attorney at law, pursuant to 28 U.S.C.  
§1746(2), declares the following under penalty of perjury:

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- 1) I represent the Defendant, FRANK NOESON, in the above-entitled action brought by the United States of America and as such am familiar with the facts and circumstances of the case.
  - 2) The Defendant appeared for an initial appearance on the Criminal Complaint on April 28, 2023.
  - 3) With the agreement of the parties, the Court scheduled to dismiss the Complaint without prejudice pursuant to Rule 48(b) on July 28, 2023.
  - 4) On July 25, 2023, your Affiant requested an adjournment of the Rule 48(b) date, which the Court adjourned until August 30, 2023.
  - 5) On August 28, 2023, your Affiant requested a second adjournment of the Rule 48(b) date, which the Court adjourned until October 2, 2023.
  - 6) The parties have continuously been engaged in plea negotiations.
  - 7) I have met with the Defendant several times at my office and have been in contact with the AUSA regarding potential plea proposals.

1       8) Recently, the parties have requested US Probation's insight on a guideline  
2 matter.

3       9) The defense will need time to review the plea, and if acceptable, the parties  
4 will apply to a District Court Judge for a date to enter a pre-indictment plea.

5       10) In order to accommodate the plea process, it is respectfully requested that  
6 the Court extend the current 48(b) date by 30 days.

7       11) AUSA Aaron Mango has no objection to the relief requested in this motion.

8       12) It is agreed that any extension granted by the Court is excludable under the  
9 Speedy Trial Act and Federal Rules of Criminal Procedure as it is in the interests  
10 of the Defendant and the public to seek a pre-indictment resolution.

11       **WHEREFORE**, the Defendant respectfully requests that the Court issue an  
12 ORDER granting the foregoing requested relief.

13                   Buffalo, New York

14                   September 28, 2023

15                   Respectfully Submitted,

16                   /s/ Mark J. Byrne

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